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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

February 24, 1998

Ms. Magalie R. Salas
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: In the Matter of Tariffs Implementing Access Charge Reform; CC Docket No. 97-250

Dear Ms. Salas:

Enclosed herewith for filing are the original and sixteen (16) copies of MCI Telecommunications Corporation's Emergency Petition for Prescription regarding the above-captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Emergency Petition for Prescription furnished for such purpose and remit same to the bearer.

Sincerely yours,

Mary L. Brown

Mary L. Brown

Enclosure
MLB

No. of Copies rec'd 0+16
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Tariffs Implementing	)	**CC Docket No. 97-250**
Access Charge Reform	)	

MCI EMERGENCY PETITION FOR PRESCRIPTION

Mary L. Brown
Don Sussman
Mary Sisak
MCI Telecommunications Corp.
1801 Pennsylvania Ave., NW
Washington, D.C. 20006

February 24, 1998

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Summary

The fundamental assumption of the Access Charge Reform Order -- that UNEs would enable significant competition in a reasonable timeframe -- has been invalidated. Unbundled network elements are not available at forward-looking economic cost throughout the country, need not be combined by the incumbent local exchange carrier (ILEC), and cannot be ordered in a nondiscriminatory manner. Furthermore, there is no prospect that these roadblocks will be cleared in the near future. While the Supreme Court has agreed to hear the Commission's appeal of the 8th Circuit's decision, it is not expected that a decision will be handed down before the end of 1998.

The reality is that without widespread availability of UNEs priced at forward-looking economic cost and available in combinations competitive entry cannot occur fast enough to put downward pressure on ILEC access rates in the foreseeable future. The pace of facilities-based entry is, almost by definition, severely constrained by the time required to construct facilities or collocations and by the need for massive levels of investment. Because facilities-based local competition is starting from a base of zero, CLEC market entry based on a pure facilities-based strategy or limited use of UNEs will take years to have any effect on the level of interstate access charges.

Not only can a facilities-based strategy not be counted on to reduce access to cost, but the current level of interstate access charges constrains the financial resources available for IXCs to pursue a facilities-based local strategy. Accordingly, one of the most significant steps the Commission can take to accelerate facilities-based competition -- the only path of entry that still holds any promise for bringing competition to the local market -- is to adopt prescriptive

measures that will ensure that access charges are quickly driven to forward-looking economic cost. Without an immediate change in course, above-cost access charges will continue to distort the market for interstate long distance services for the foreseeable future.

RBOC entry into in-region long distance markets before access rates are brought to cost would lead to continued monopoly pricing, price squeezes, and no real competition. The Commission must, therefore, lower interstate access rates to reflect forward-looking economic cost in advance of granting RBOC entry into in-region long distance markets.

In addition to the fundamental economic deficiencies of the access structure and rate levels resulting from the Access Charge Reform Order (e.g., access charges that continue to significantly exceed forward-looking economic cost), the manner in which the Commission has chosen to implement its Access Reform policies is not practical. Under the current flat-rate line structure (i.e., where IXCs are assessed a PICC for each presubscribed line, regardless of usage), IXCs are placed in a position where there is no efficient cost-causative manner in which they can recover PICC charges assessed on them by the ILEC for zero-usage customers. So that long distance carriers and their customers are not harmed, the Commission should immediately require ILECs to recover the PICC from end users. This modification would end the guessing on which IXCs currently must base their PICC cost recovery, significantly reduce the risk of uncollectibles that will, no doubt, result in upward pressure on long distance rates, and allow all carriers to recover costs in the most efficient, cost-causative manner.

The Commission must re-visit and significantly modify its Access Reform policies by July 1, 1998, as many of the fundamental assumptions on which the Commission based its decisions have not been realized. Absent significant modifications -- the most notable of which include immediately lowering access rates to forward-looking economic cost and requiring ILECs to recover PICCs directly from end users -- long distance carriers will continue to be competitively disadvantaged, long distance consumers will be harmed, and competition in local markets will be seriously jeopardized.

The failure on the part of the ILECs to fully implement the Commission's limited access reform and universal service decisions have simultaneously put long distance carriers in an expensive and risky guessing-game as we try to collect the revenues to meet presubscribed interexchange carrier charge (PICC) and universal service fund (USF) obligations we pay to the ILECs, and have left long distance customers at risk of overpaying these new charges. Specifically, the ILECs have failed to:

- Define primary and non-primary residential lines;
- Provide IXCs timely, verifiable, auditable, line count information supporting PICC charges;
- Provide IXCs information necessary to identify Centrex lines, and needed to distinguish between single and multi-line business customers;
- Accept de-PIC from IXCs when we terminate a relationship with a customer for non-payment.
- Clearly identify the amount of IXC federal universal service contribution collected by the ILEC through interstate access charges;

Consequently, long distance carriers are placed in the position of having to recover new access costs represented by PICC and ILEC USF flow throughs without the essential data needed to make certain that we are collecting these fees in the most accurate way from our customer base. This guessing game forces us to balance the risk of charging our customers too much -- resulting in competitive consequences in the long distance markets -- or too little, leaving us financially weaker and less able to enter local markets. MCI believes we will at minimum fail to recover nearly $200 million of the 1998 PICCs and USF costs assessed to us by ILECs.

For these reasons, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, MCI requests an immediate prescription of key rate levels, terms, and conditions in the pending tariff investigation. Specifically, the Commission should eliminate the distinctions between primary and non-primary lines, as the costs associated with implementing such distinctions clearly outweigh the benefits. The Commission should also:

- Hold the ILECs responsible for collection of PICC until such time as they can provide all necessary information to IXCs in advance of billing;
- Prescribe a standardized, independently verifiable, definition of primary and non-primary;
- Require the ILECs to provide auditable line count information, by telephone number, immediately;
- Move as quickly as possible to grant the Sprint petition or prescribe language that makes clear that IXCs can notify ILECs of de-PICs; and,
- Standardize the date used by ILECs to decide which customers' PICCs are assigned to a particular IXC.

Additionally, regardless of the determinations the Commission makes regarding the PICC, it should require the ILECs to provide to each IXC the amount of USF pass through each IXC is receiving in its access bills every month. This will allow the IXCs to monitor and recover USF costs more efficiently and accurately.

These are items that, for the most part, the Commission itself has noted require resolution. With these key items prescribed in the tariffs and implemented, long distance carriers will be able to more quickly rationalize our rate structure to our customers and to prepare for the next round of increases in PICCs and USF.

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of:	)	
	)	
Tariffs Implementing	)	**CC Docket No. 97-250**
Access Charge Reform	)	

MCI EMERGENCY PETITION FOR PRESCRIPTION

I. Introduction

The Commission stated clearly in the Access Charge Reform Order[1] that its goal is to reduce interstate access charges to cost because access charges higher than cost "imped[e] the efficient development of competition" and "generate inefficient and undesirable economic behavior."[2] The Commission's decision to adopt the market-based approach in that order to achieve this goal was based on a predictive judgment that competition would develop sufficiently

[1]Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing, End User Common Line Charges, CC Docket Nos. 96-262, 94-1, 91-213, and 95-72, First Report and Order, 12 FCC Rcd 10119 (1997)(Access Charge Reform Order)

[2] Access Charge Reform Order at ¶42 ("To fulfill Congress's pro-competitive mandate, access charges should ultimately reflect rates that would exist in a competitive market."). See also Access Charge Reform Order at ¶30.

to constrain access charges.[3] However, not only is it clear that current competitive conditions are not reducing incumbent local exchange carrier (ILEC) access charges, but there is no prospect that market forces will discipline access charges to any significant degree between now and 2001, the period the Commission allotted to the market-based approach.[4] Events of the past year have undermined all of the assumptions upon which this predictive judgment was based.

In MCI's view, the Commission must re-visit and significantly modify its Access Reform policies by July 1, 1998, as many of the fundamental assumptions on which the Commission based its decisions have not been realized. Absent significant modifications -- the most notable of which include immediately lowering access rates to forward-looking economic cost and requiring ILECs to recover PICCs directly from end users -- long distance carriers will continue to be competitively disadvantaged, long distance consumers will be harmed, and competition on local markets will be seriously jeopardized.

More immediately, IXCs are confronting a set of implementation issues associated with the Commission's imperfect reform efforts that are harming consumers and competitors. For these reasons, pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act, MCI requests an immediate prescription of key rate levels, terms, and conditions in the pending tariff investigation. Specifically, the Commission should eliminate the

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[3] See Brief for Federal Communications Commission, Southwestern Bell Telephone Co. v. Federal Communications Commission, Case Nos. 97-2866/2873/2875/3012 (8th Cir.), October 16, 1997 at 98.

[4] Access Charge Reform Order at ¶48 ("Where competition has not emerged, we reserve the right to adjust rates in the future to bring them into line with forward-looking costs. To assist us in that effort, we will require price cap LECs to submit forward-looking cost studies of their services no later than February 8, 2001, and sooner if we determine that competition is not developing sufficiently for the market-based approach to work.")

distinctions between primary and non-primary lines, as the costs associated with implementing such distinctions clearly outweigh the benefits. The Commission should also:

- Hold the ILECs responsible for collection of PICC until such time as they can provide all necessary information to IXCs in advance of billing;
- Prescribe a standardized, independently verifiable, definition of primary and non-primary;
- Require the ILECs to provide auditable line count information, by telephone number, immediately;
- Move as quickly as possible to grant the Sprint petition or prescribe language that makes clear that IXCs can notify ILECs of de-PICs; and,
- Standardize the date used by ILECs to decide which customers' PICCs are assigned to a particular IXC.

Additionally, regardless of the determinations the Commission makes regarding the PICC, it should require the ILECs to provide to each IXC the amount of USF pass through each IXC is receiving in its access bills every month. This will allow the IXCs to monitor and recover USF costs more efficiently and accurately.

II. The Commission's Access Reform Decisions must Be Re-visited

First, shortly after the Commission adopted the Access Charge Reform Order, the 8th Circuit struck down the Commission's pricing guidelines for unbundled network elements. In the Access Charge Reform Order, the Commission had concluded that the Act's cost-based pricing requirement for unbundled network elements would "greatly facilitate competitive entry into the provision of all telecommunications services" and would consequently drive interstate access prices to competitive levels.[5] In many states, however, the current levels of recurring and, in particular, nonrecurring charges for unbundled network elements (UNEs) do not allow for competitive entry. Without both recurring and nonrecurring charges at forward-looking economic cost, the Commission's fundamental assumption that the availability of UNEs could discipline ILEC access charges has been seriously undermined.

More recently, the 8th Circuit struck down the Commission's requirement that ILECs combine unbundled elements for new entrants. Without a requirement that the ILECs combine network elements, the scope for UNE-based competition is sharply limited. As the Commission concluded in the Local Competition Order, "requesting carriers would be seriously and unfairly inhibited in their ability to use unbundled elements to enter local markets" if the ILEC is not required to combine elements.[6] The 8th Circuit's decision destroys, for example, the viability of the so-called "platform" approach, which was a key strategy for new entrants to use in entering new markets or expanding their presence in a market. The availability of the platform strategy was an important factor underlying the Commission's "confidence" that unbundled elements could be counted on to constrain the pricing of access services.[7]

Additionally, since the release of the Access Charge Reform Order, it has become clear that the ILECs are unwilling to provide nondiscriminatory access to their OSS functions. Even for simple resale orders, the Commission has found nonstandard interfaces, substantial

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[5] Access Charge Reform Order at ¶262.

[6] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, First Report and Order, 11 FCC Rcd 15499(1996)(Local Competition Order) at ¶293.

[7] Access Charge Reform Order at ¶¶32, 340.

differences in the flow through rates of the ILEC and competing carriers, and serious system deficiencies. With regard to OSS for unbundled elements, the Commission has found that these systems have been tested only to a limited extent in a commercial setting.[8]

Thus, the fundamental assumption of the Access Charge Reform Order -- that UNEs would enable significant competition in a reasonable timeframe -- has been invalidated. Unbundled network elements are not available at forward-looking economic cost throughout the country, need not be combined by the ILEC, and cannot be ordered in a nondiscriminatory manner.[9] Furthermore, there is no prospect that these roadblocks will be cleared in the near future. While the Supreme Court has agreed to hear the Commission's appeal of the 8th Circuit's decision, it is not expected that a decision will be handed down before the end of 1998.

Under these circumstances, the Commission can no longer reasonably predict that competition will evolve sufficiently to drive access charges to cost. New entrants' only remaining options for entering the local market are to rely entirely on their own facilities or, to a very limited extent, their own facilities in combination with UNEs.[10] Because of the substantial levels of investment required for a new entrant to pursue a facilities-based strategy, there is no question that the pace of competitive entry will be substantially less than the Commission

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[8] In the Matter of Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, to provide In-Region, InterLATA Services in Michigan, Memorandum Opinion and Order, CC Docket No. 97-137, released August 19, 1997 (Michigan 271 Order) at ¶161.

[9] While MCI applauds the work of several states in making combinations of elements available at forward-looking pricing as a matter of state or contract law, there can be little dispute that UNEs are not practically available on a national scale.

[10] Current resale discounts are insufficient for resale to be a viable strategy. More importantly, resellers of local exchange services must still pay ILEC access charges.

contemplated in the Access Charge Reform Order. As a result, the Commission could not, as it did in the Access Charge Reform Order, express "confidence" that competition will drive access charges to competitive levels.[11]

In addition, the Commission can no longer rely on the availability of UNEs to minimize the risk of a price squeeze. In the Access Charge Reform Order, the Commission recognized that above-cost access charges provided a substantial opportunity for ILECs providing interexchange services to engage in a price squeeze.[12] It dismissed these concerns, however, by finding that "[a]s long as an incumbent LEC is required to provide unbundled network elements quickly, at economic cost, and in adequate quantities, an attempted price squeeze seems likely to induce substantial additional entry in local markets."[13] Because the Commission can no longer count on unbundled network elements being available "quickly, at economic cost, and in adequate quantities," it must adopt prescriptive measures that accelerate the transition of access charges to forward-looking economic cost.

The reality is that without widespread availability of UNEs priced at forward-looking economic cost and available in combinations competitive entry cannot occur fast enough to put downward pressure on ILEC access rates in the foreseeable future. The pace of facilities-based entry is, almost by definition, severely constrained by the time required to construct facilities or collocations and by the need for massive levels of investment. Because facilities-based local

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[11]See Access Charge Reform Order at ¶48.

[12]Access Charge Reform Order at ¶277 ("Absent appropriate regulation, an incumbent LEC and its interexchange affiliate could potentially implement a price squeeze once the incumbent LEC began offering in-region, interexchange toll services.")

[13]Access Charge Reform Order at ¶280.

competition is starting from a base of zero, CLEC market entry based on a pure facilities-based strategy or limited use of UNEs will take years to have any effect on the level of interstate access charges.

Not only can a facilities-based strategy not be counted on to reduce access to cost, but the current level of interstate access charges constrains the financial resources available for IXCs to pursue a facilities-based local strategy.[14] Accordingly, one of the most significant steps the Commission can take to accelerate facilities-based competition -- the only path of entry that still holds any promise for bringing competition to the local market -- is to adopt prescriptive measures that will ensure that access charges are quickly driven to forward-looking economic cost. Without an immediate change in course, above-cost access charges will continue to distort the market for interstate long distance services for the foreseeable future.

The economic distortions in the interstate market will also effect the development of widespread competition in the local market. Section 271 of the Telecommunications Act requires the presence of facilities-based residential and business competition prior to RBOC entry into in-region long distance markets. But given the litigation environment that has precluded new entrants from using UNEs, and the continued financial drain caused by access rates priced nearly eight times (or $13 billion) above cost, the spread of competition into new markets has been significantly slowed. As long as access rates remain above forward-looking economic cost, RBOCs will control local bottleneck facilities and continue to line their pockets

[14] This problem is worsened by recent Commission decisions (1) authorizing the ILECs to assess per-call payphone compensation well in excess of cost on the long distance industry; (2) leaving international accounting rates well above economic cost; and (3) placing IXCs in the position of tax collector from end users for ILEC excessive access fees and universal service costs.

with capital that long distance companies could otherwise invest in local facilities.

RBOC entry into in-region long distance markets before access rates are brought to cost would lead to continued monopoly pricing, price squeezes, and no real competition. The Commission must, therefore, lower interstate access rates to reflect forward-looking economic cost in advance of granting RBOC entry into in-region long distance markets.

In addition to the fundamental economic deficiencies of the access structure and rate levels resulting from the Access Charge Reform Order (e.g., access charges that continue to significantly exceed forward-looking economic cost), the manner in which the Commission has chosen to implement its Access Reform policies is not practical. For example, long distance carriers typically have many customers that, in a given month, place no long distance calls.[15] In a given month, approximately 25 to 30 percent of MCI's long distance customer base is zero-usage customers. Under the per-minute access structure, effective prior to January 1, 1998, an IXC was not adversely impacted if a significant portion of its customer base were zero-usage customers. However, under the current flat-rate line structure (i.e., where IXCs are assessed a PICC for each presubscribed line, regardless of usage), IXCs are placed in a position where there is no efficient cost-causative manner in which they can recover PICC charges assessed on them by the ILEC for zero-usage customers.[16] So that long distance carriers and their customers are not harmed, the Commission should immediately require ILECs to recover the PICC from end users. This modification would end the guessing on which IXCs currently must base their PICC cost

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[15] Customers that place no long distance calls in a given month are referred to as "zero-usage" or "sporadic-usage" customers).

[16] Based on MCI's experience, it is not practical for IXCs, especially those which rely on BOC billing, to recover flat-rated line costs from zero-usage customers.

recovery, significantly reduce the risk of uncollectibles that will, no doubt, result in upward pressure on long distance rates, and allow all carriers to recover costs in the most efficient, cost-causative manner.

The Commission must re-visit and significantly modify its Access Reform policies by July 1, 1998, as many of the fundamental assumptions on which the Commission based its decisions have not been realized. Absent significant modifications -- the most notable of which include immediately lowering access rates to forward-looking economic cost and requiring ILECs to recover PICCs directly from end users -- long distance carriers will continue to be competitively disadvantaged, long distance consumers will be harmed, and competition on local markets will be seriously jeopardized.

III. Numerous Implementation Issues Are Harming Consumers and Competitors

The creation of line items by IXCs to recover PICC and USF should come as no surprise to those who have been observing the financials and price competition occurring in the long distance industry over the past year. The luke-warm financial performance of long distance carriers as a group is evidence of the costs these carriers face on two fronts: (1) breaking into local markets; and (2) competition faced in the core long distance sector. MCI has been no exception to this general trend. Moreover, because our rates fell substantially further and faster than access reductions, MCI decided to flow through the effects of PICC and USF charges when ILECs initiated those charges on January 1, 1998.[17]

[17] Further, with respect to the PICC, the future increases MCI will experience in these charges suggested to us that we should translate into our retail rates the straight-forward economic relationship that the Commission created with PICCs, namely, that it costs money to provide

Since the Commission's reform of access charge structures and rates, the Regional Bell Operating Companies (RBOCs) have "been on a torrid run."[18] Wall Street has pointed out that "the economics of the local exchange industry under its current monopoly status are fantastic."[19]

A comparison of Full Year 1996 to Full Year 1997 statistics illustrates that RBOCs as a group saw revenues and earnings increase $6.0 billion and $1.1 billion, respectively.[20] Conversely, for the same period, the three largest long distance companies (MCI, Sprint & AT&T) have drastically felt the negative effects of access reform and increased competition.[21] Specifically:

- These long distance carriers' weighted average revenue increased only 3.5%, for a total revenue increase of $2.7B, while net income decreased (22.4%), or a total of ($1.8B);
- Average operating margin decreased (3.3) percentage points to 12.2%, about half of the RBOCs' average operating margin;
- Average net income margin decreased (2.6) percentage points to 7.7%;
- Average EBITDA margin decreased (1.6) percentage points to 20.4%, less than half of the RBOCs' average EBITDA margin.

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long distance services even to low usage customers.

[18] Eric Struminghер, Pain Webber analyst, "Bell Atlantic 4Q Barely Misses Street; Analysts Unfazed," Dow Jones, by Brian Steinberg, 1/21/98.

[19] Id.

[20] RBOC average EBITDA margin increased 0.3 percentage points to 42.5%, average operating margin increased 0.5 percentage points to 24.5%, and average net income margin increased 0.4 percentage points to 13.3%. Company press releases (Ameritech Jan. 13, 1998, Bell Atlantic Jan. 21, 1998, BellSouth Jan. 22, 1998, SBC Jan. 28, 1998, US West, Feb. 6, 1998).

[21] Company press releases (AT&T Jan. 26, 1998, MCI Jan. 29, 1998, Sprint Feb. 3, 1998).

For MCI, margins decreased significantly from 4Q96 to 4Q97[22] and MCI's earnings shrank 77.3%, or by $231 million:[23]

The decline in earnings reflects in part MCI's decision to lower its long distance rates, passing through to its customers more than the amount of interstate access reductions received on July 1, 1997 and January 1, 1998. For MCI's consumer products, the company has passed through $2 for every $1 of access reductions received. In fact, the net impact of the recent changes in access charges structure and level has been beneficial to the vast majority of residential customers, even taking into account the recent addition of new universal service charges to end users' bills. This continues the revenue per minute decline identified by Professor Robert Hall of Stanford University, who found that revenue per minute declined by 8.2% between 1996 and 1997 (from 14.7¢/min to 13.5 ¢/min.).[24] Further, he finds that the decline in revenue per minute exceeds the decline in access charges by 1.1 cents per minute.

While the actual experience of individual long distance customers depends on his or her usage level, calling pattern, and calling plan, MCI rates have come down for basic rate customers, as well as for customers on calling plans, such as MCI One. For customers with

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[22]

	4Q96	4Q97	1996	1997
EBITDA margin	21.3%	15.1%	21.5%	18.7%
Operating margin	12.3%	4.4%	12.5%	8.6%
Net income margin	6.4%	1.4%	6.5%	4.0%

[23]

	4Q96	4Q97	1996	1997
EPS	$0.44	$0.10	$1.73	$1.10
Dollar growth	$0.03	($0.34)	$0.18	($0.63)
Percent growth	7.3%	(77.3%)	11.6%	(36.4%)

[24]Declaration of Robert E. Hall, In the Matter of Applications of WorldCom Inc. For Transfers of Control of MCI Communications Corporation, CC Docket No. 97-211, January 26, 1998

typical peak/off-peak calling patterns, the change in their bill, depends on their total usage volume. As shown in the table below, for customers with calling in excess of about 60 minutes a month, the decline in per-minute rates will more than offset the pass through of the PICC.[25]

Volumes	1/1/97 Bill	1/1/98 Usage	PICC	1/1/98 Bill	Savings
30	$5.96	$5.38	$1.07	$6.45	$(0.49)
60	$11.92	$10.77	$1.07	$11.84	$0.08
120	$23.84	$21.54	$1.07	$22.61	$1.23
240	$47.68	$43.08	$1.07	$44.15	$3.54
600	$119.21	$107.69	$1.07	$108.76	$10.45

Customers using MCI One, our premier product, have benefitted because the product attracts customers with usage greater than 30 minutes a month. Savings on their long distance bill, compared to a year ago, will depend on calling volume and pattern. For example, a customer calling 120 minutes a month will have saved 18%. A customer with 600 minutes of calling will save 22%. (His bill will have declined from $72 to $56 a month.)

Many customers have reduced their long distance costs even more dramatically, by shifting from basic rates to the heavily promoted MCI One, or moving more of their calling to Sunday to take advantage of MCI's 5 cent rate. Small business customers who switched to MCI One received substantial price decreases, from about $0.30 per minute to $0.12-$0.15 per minute, a discount over 50 percent regardless of usage. In addition, a 120 minute basic rate residential customer who shifts half of his weeknight and Saturday calling to Sunday will save on average 19% on his bill. As a result of 5 cent Sundays, Sunday volume has increased substantially.

[25] MCI is not currently assessing a USF charge on its residential customers.

Sunday calling on MCI now regularly exceeds the calling volume previously experienced only on Mothers Day, the busiest calling day of the year. The bottom line is that users of MCI services are buying cheaper minutes of long distance than they were a year ago.

The Commission's orders creating PICC and USF charges either specifically contemplated the creation of line charges or were silent on how IXCs were to recover these costs. In the case of PICCs, however, the Commission recognized that there were numerous implementation issues to be resolved in order that IXCs could be assured that they were receiving accurate PICC bills from ILECs. These implementation issues have not been resolved, making reconciliation of PICC bills extremely costly to IXCs, and creating difficult implementation issues for IXCs to solve who have decided to use line items to recover these costs in lieu of keeping per minute prices higher. For USF, additional detail is required to ensure that in choosing to proceed with a line item, we do not inadvertently collect too much or too little revenue. In the sections below, MCI asks the Commission to use its prescription powers to immediately correct ILEC access tariffs.

IV. The Commission Should Immediately Prescribe Certain Rates, Terms, and Conditions in Its Investigation of ILEC Tariffs

In the interim, until the Commission prescribes measures that drive interstate access rates to forward-looking economic cost, the Commission should take immediate action to ensure that (1) IXCs have the opportunity to recover their costs efficiently, and (2) harm to long distance consumers resulting from ILEC PICC billing delays is mitigated. Pursuant to Sections 4(i), 4(j), 201(b), 203(c), 204(a), 205, and 403 of the Communications Act,[26] MCI Telecommunications requests that the Commission immediately prescribe certain rates, terms, and conditions in the above-captioned investigation of price cap ILECs' interstate tariffs, filed December 17, 1997. These tariffs, which were suspended by the Commission for one day and which took effect on January 1, 1998 pending investigation,[27] set forth rates, terms and conditions that ILECs filed as a result of the Commission's Access Charge Reform Order[28] and Universal Service Order.[29]

The failure on the part of the ILECs to fully implement the Commission's limited access reform and universal service decisions have simultaneously put long distance carriers in an expensive and risky guessing-game as we try to collect the revenues to meet presubscribed interexchange carrier charge (PICC) and universal service fund (USF) obligations we pay to the ILECs, and have left long distance customers at risk of overpaying these new charges.

Specifically, the ILECs have failed to:

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[26] 47 U.S.C. §§ 154(i), 154(j), 201(b), 203(c), 204(a), 205, and 403.

[27] Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Memorandum Opinion and Order, DA 97-2724 (Com. Car. Bur., rel. Dec. 30, 1997)(Access Charge Reform Tariffs Suspension Order). See also, Memorandum Opinion and Order, DA 98-125 (Com. Car. Bur., rel. Jan. 23, 1998)(suspending 14 transmittals and incorporating their review into the investigation).

[28] In the Access Charge Reform Order, the Commission restructured ILEC access rates to: (1) place more costs directly on end users in the form of higher subscriber line charges; and (2) recover costs that do not vary with volume using flat monthly charges instead of per minute charges.

[29] In the Universal Service Order, the Commission took steps to ensure that support mechanisms that are necessary to maintain local rates at affordable levels are protected and advanced as competition in local telecommunications markets develops, and to make such support explicit, as is required by the Telecommunications Act of 1996. 47 U.S.C. §254(d)-(e). Federal-State Board on Universal Service, CC Docket No. 96-45, Report and Order, FCC 97-157 (rel. May 8, 1997) (Universal Service Order).

- Define primary and non-primary residential lines;
- Provide IXCs timely, verifiable, auditable, line count information supporting PICC charges;
- Provide IXCs information necessary to identify Centrex lines, and needed to distinguish between single and multi-line business customers;
- Accept de-PIC from IXCs when we terminate a relationship with a customer for non-payment; and
- Clearly identify the amount of IXC federal universal service contribution collected by the ILEC through interstate access charges.[30]

Consequently, long distance carriers are placed in the position of having to recover new access costs represented by PICC and ILEC USF flow throughs without the essential data needed to make certain that we are collecting these fees in the most accurate way from our customer base. This guessing game forces us to balance the risk of charging our customers too much -- resulting in competitive consequences in the long distance markets -- or too little, leaving us financially weaker and less able to open local markets. MCI believes we will at minimum fail to recover nearly $200 million of the 1998 PICCs and USF costs assessed to us by ILECs.

For these reasons, MCI requests an immediate prescription of key rate levels, terms, and conditions in the pending tariff investigation. Specifically, the Commission should eliminate the distinctions between primary and non-primary lines, as the costs associated with implementing such distinctions clearly outweigh the benefits. The Commission should also:

- Hold the ILECs responsible for collection of PICC until such time as they can provide all necessary information to IXCs in advance of billing;

[30] MCI has requested that ILECs provide information showing the amount of subsidies included in interstate access charges. This request is consistent with the requirement in the Telecommunications Act that subsidies be "explicit."

- Prescribe a standardized, independently verifiable, definition of primary and non-primary;
- Require the ILECs to provide auditable line count information, by telephone number, immediately;
- Move as quickly as possible to grant the Sprint petition or prescribe language that makes clear that IXCs can notify ILECs of de-PICs; and
- Standardize the date used by ILECs to decide which customers' PICCs are assigned to a particular IXC.

Additionally, regardless of the determinations the Commission makes regarding the PICC, it should require the ILECs to provide to each IXC the amount of USF pass through each IXC is receiving in its access bills every month. This will allow the IXCs to monitor and recover USF costs more efficiently and accurately.

These are items that, for the most part, the Commission itself has noted require resolution.[31] With these key items prescribed in the tariffs and implemented, long distance carriers will be able to more quickly rationalize our rate structure to our customers and to prepare for the next round of increases in PICCs and USF.

V. The Commission Must Immediately Adopt a Standardized, Verifiable, Definition of Primary and Non-Primary Lines

Under the Commission's rules, IXCs are assessed a monthly bill by the ILECs of $0.53 for each presubscribed primary residential line and for each single-line business line, $1.50 for each non-primary residential line, $2.75 for each multi-line business line, $0.31 per Centrex line,

[31] See Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, DA 98-151 (Com. Car. Bur., rel. Jan. 28, 1998)(Designation Order).

and $13.75 per ISDN PRI line.[32] Because the PICC amount varies significantly depending on whether a line is classified as residential primary or non-primary, or multi-line business or single-line business, the classification by ILECs of the IXC customer base into single, non-primary, or multi-line categories has a substantial influence over PICC charges that IXCs must pay. To be provided a fair opportunity to recover costs, IXCs need clear, standard, verifiable tariffed definitions that distinguish these line types and auditable line count information.

The Commission must adopt a standardized definition on which the ILECs will base their PICC bills. In the ILEC tariffs that became effective January 1, 1998, ILECs included a wide range of definitions for primary and non-primary residential lines (see Appendix A). The Commission has determined that the ILECs' inconsistent definitions are often "vague" and "circular."[33] The Commission should immediately issue an order in the Defining Primary Lines proceeding (CC Docket No. 97-181) or prescribe language in the instant tariff investigation that requires ILECs to adopt standardized, clear, competitively neutral residential line definitions. A standardized definition will afford IXCs the ability to better determine how to recover costs and reduces IXC internal systems duplication costs caused by differing ILEC definitions.

The Commission is in apparent agreement with MCI that the ILECs must incorporate clear line definitions in their tariffs. On September 5, 1997, the Commission released the Primary Lines NPRM seeking comment on how to define primary residential lines, and how to

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[32] These are the maximum PICCs allowed by the Commission's rules.

[33] Designation Order at ¶15.